BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of:	
Business Meeting	
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CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 2, 2005
10:04 A.M.

Reported by: Peter Petty

Contract No. 150-04-001

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COMMISSIONERS PRESENT

William J. Keese, Chairman

Arthur Rosenfeld

John L. Geesman

Jackalyne Pfannenstiel

STAFF and CONSULTANTS PRESENT

Robert Therkelsen, Executive Director

William Chamberlain, Chief Counsel

Song Her, Acting Secretariat

Fernando DeLeon

Kevin Kennedy

Scott Tomashefsky

Mark Rawson

Rasa Keanini

Jamie Patterson

Virgil Rose, Consultant Power System Consulting

PUBLIC ADVISER

Margret Kim

ALSO PRESENT

Lisa G. Urick, Managing Attorney San Diego Gas and Electric Company

John A. McKinsey, Attorney Stoel Rives, LLP on behalf of El Segundo Power II, LLC Redevelopment Project

ALSO PRESENT

David Palmer, Staff Attorney Santa Monica Baykeepers on behalf of Intervenors (via teleconference)

Bob Perkins
(via teleconference)

Issa Ajlouny
(via teleconference)

Steve Nelson
(via teleconference)

Bill Eisen
(via teleconference)

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1	PROCEEDINGS
2	10:04 a.m.
3	CHAIRMAN KEESE: We'll call this meeting
4	of the Energy Commission to order and we'll recite
5	the Pledge.
6	(Whereupon the Pledge of Allegiance was
7	recited in unison.)
8	CHAIRMAN KEESE: Thank you.
9	Commissioner Pfannenstiel will be joining us as
10	soon as she gets out of the Senator's office. And
11	Commissioner Boyd is not here today.
12	Consent calendar. Do I have a motion?
13	COMMISSIONER ROSENFELD: So moved.
14	CHAIRMAN KEESE: Motion, Rosenfeld.
15	COMMISSIONER GEESMAN: Second.
16	CHAIRMAN KEESE: Second, Geesman.
17	All in favor?
18	(Ayes.)
19	CHAIRMAN KEESE: Opposed? Adopted three
20	to nothing. Thank you.
21	San Diego Gas and Electric Appeal.
22	Consideration of an appeal by San Diego Gas and
23	Electric of the Energy Commission Executive
24	Director's decision denying their application for
25	confidentiality pursuant to California Code of

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1 Regulations title 20.
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- 2 Do you want to present, or do we want to
- 3 hear from -- is San Diego here?
- 4 MR. DeLEON: San Diego is here. I'll
- 5 make a brief --
- 6 CHAIRMAN KEESE: Thank you.
- 7 MR. DeLEON: -- summary and then we'll
- 8 let San Diego speak.
- 9 Good morning, Commissioners. I am
- 10 Fernando DeLeon, an attorney with the Energy
- 11 Commission.
- 12 The matter before you this morning is an
- 13 appeal by San Diego Gas and Electric on the
- 14 Executive Director's decision denying their
- 15 application for confidentiality for information
- that was submitted as part of the Commission's
- 17 2005 Integrated Energy Policy Report proceeding.
- 18 Specifically San Diego is seeking
- 19 confidentiality for information filed on the
- 20 Commission's retail electricity price forecast
- 21 forms 1A, 1B and 1C on the grounds that the
- 22 information constitutes a trade secret for which
- 23 confidentiality applies pursuant to the Public
- 24 Records Act and the Commission's own regulations.
- 25 The Executive Director denied San

1 Diego's request for confidentiality on the basis

- 2 that the information submitted did not constitute
- 3 a trade secret, since it was neither commercially
- 4 sensitive nor did it provide San Diego's
- 5 competitors with a competitive business advantage.
- In fact, staff was able to find much of
- 7 the information filed in San Diego's filing in
- 8 publicly available documents.
- 9 San Diego has appealed the Executive
- 10 Director's decision and is requesting that the
- 11 Commission allow time for all three investor-owned
- 12 utilities and the Commission Staff to work out a
- 13 common framework for the treatment of this data.
- 14 Subsequent to San Diego's filing both
- 15 PG&E and Southern California Edison have filed
- 16 retail electricity forecasts forms seeking varying
- 17 levels of confidentiality or no confidentiality at
- 18 all.
- 19 Commission regulations require that the
- 20 Commission shall issue a decision on an appeal of
- 21 confidentiality within four weeks following that
- 22 appeal. Their appeal was received on January 11,
- 23 2005.
- 24 And if you have any questions we'll let
- 25 San Diego speak to the issue.

1 CHAIRMAN KEESE: Yes, I think before we

- get any further we should hear San Diego's
- 3 presentation and their current feeling on this
- 4 issue.
- 5 MR. DeLEON: Okay.
- 6 MS. URICK: Thank you, Commissioners,
- 7 good morning. Thank you, Fernando, also. I'm
- 8 Lisa Urick. I'm an attorney representing SDG&E in
- 9 this proceeding.
- 10 I appreciate the opportunity to offer a
- 11 few brief remarks on SDG&E's confidentiality
- 12 application. And Fernando correctly summarized
- 13 basically the chronology here.
- SDG&E's appeal is limited and I'll, I
- guess, reinforce that point. We're essentially
- 16 not seeking to challenge the underlying decision
- of the Executive Director for that November 30th
- 18 filing.
- 19 Our appeal, though, does request that
- 20 the Commission endorse a process that would allow
- 21 SDG&E, as well as the other two utilities, and the
- 22 CEC Staff, to work together to establish basically
- 23 a confidentiality framework that would govern that
- 24 data from November 30th, as well as the future
- 25 filings that will be made in the IEPR docket.

1	And as you're well aware, I'm sure,
2	there was a filing made yesterday on demand
3	forecast information; a resource plan filing will
4	also be made on March 1st; and transmission filing
5	will be made on April 1st.
6	Our basic premise is that this process
7	was one that the PUC had undertaken at the
8	beginning of the resource planning process at the
9	Commission a couple of years ago where we did work
10	together, and I believe CEC Staff also
11	participated in that. And it was reasonably
12	successful in working out basically a framework in
13	which the filings were made for the future with
14	respect to confidential information.
15	In our limited experience thus far, of
16	course the CEC Staff has been very open and
17	available to work with us to address the
18	confidentiality issues, and we very much
19	appreciate their efforts there.
20	SDG&E also understands the concern of
21	the CEC, as well as the PUC, about insuring that
22	decisionmaking processes are open, and that there
23	is a sufficient basis for supporting the decisions
24	issued by public agencies. The countervailing

public interest, also, that needs to be weighed is

to insure that ratepayers aren't harmed by higher

- 2 energy prices than would otherwise be the case due
- 3 to suppliers' access to competitive and market-
- 4 sensitive information.
- 5 So, SDG&E's concern is that where its
- 6 residual net short position and its energy needs
- 7 can basically be reverse engineered, particularly
- 8 peak and hourly energy needs, the utility, indeed,
- 9 tries to protect that information from being
- 10 publicly available.
- 11 As I said, more filings are coming up,
- so we thought it was an opportune moment to
- 13 perhaps suggest a collaborative process to address
- 14 past and future issues that we're likely to
- 15 encounter in this area as being a potentially
- workable solution for going forward.
- 17 SDG&E would certainly be happy to assist
- 18 CEC Staff in organizing that effort. And, of
- 19 course, addressing any questions that you might
- have.
- 21 Thank you for your consideration.
- 22 CHAIRMAN KEESE: Thank you. Help me out
- 23 with what our status is, then. Our staff has
- indicated an interest in moving forward with the
- 25 collaborative process for future filings because

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we're not set and you're not set, but for this set
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- of filings, denying confidentiality.
- 3 Are you comfortable now with --
- 4 MS. URICK: You mean for the November
- 5 30th filing, the one that was actually the
- 6 original that --
- 7 CHAIRMAN KEESE: Correct.
- 8 MS. URICK: -- generated the appeal?
- 9 CHAIRMAN KEESE: Right, so we're going
- 10 to --
- 11 MS. URICK: Basically what we said in
- our appeal was that we would like to have the
- 13 process also apply to that data, and that we would
- 14 either accept the underlying decision of the
- 15 Executive Director that was issued in December, or
- 16 whatever is adopted through the collaborative
- 17 process, if, indeed, that were to take place.
- 18 CHAIRMAN KEESE: All right.
- 19 MS. URICK: So I don't know if that
- 20 helps with where you're briefing recommendation
- is, but that's basically the position that SDG&E
- had presented.
- 23 CHAIRMAN KEESE: Commissioner Geesman.
- 24 COMMISSIONER GEESMAN: I'm completely
- 25 confused. I don't know if we have an appeal in

1 front of us, or an invitation to a collaborative

- 2 process.
- 3 MS. URICK: Well, I think the -- I
- 4 called it a limited appeal for lack of a better
- 5 title. And the request was basically to just make
- 6 a suggestion --
- 7 CHAIRMAN KEESE: Let me word it. If we
- 8 deny your appeal and agree to a collaborative
- 9 process, is that acceptable?
- 10 MS. URICK: It is acceptable, of course;
- 11 and we -- I guess the only ambiguous area perhaps
- is how the November 30th data is treated. I don't
- 13 know if your determination on the collaborative
- 14 process is just meant to apply to future filings,
- or if, indeed, it's going to apply to all the
- 16 filings that have already been made.
- So, for example, if --
- 18 COMMISSIONER GEESMAN: I also heard you
- say, Lisa, that one option was simply for SDG&E to
- 20 accept the Executive Director's ruling on the
- November 30th filing.
- MS. URICK: That is an option. And the
- 23 way I had -- the way I was laying it out in my
- 24 appeal basically was just that there were two
- 25 alternatives, sort of a collaborative process that

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1 would address both the November 30th filings, as
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- 2 well as future filings.
- 3 Or if you don't want to go down that
- 4 path, then we would accept the determination of
- 5 the Executive Director.
- 6 Now, there's, I guess, a --
- 7 COMMISSIONER GEESMAN: It would seem to
- 8 me that that would enable you the ability then to
- 9 withdraw your appeal now and, as you and the
- 10 Executive Director and the other utilities craft
- 11 this collaborative process, make some
- 12 determination then as to whether that
- 13 collaborative process would apply to the November
- 30th information or not.
- MS. URICK: That sounds like a very good
- 16 solution. And certainly one that we would
- 17 support.
- 18 COMMISSIONER GEESMAN: It would seem to
- 19 me that the collaboration is really something that
- 20 you need to work out with the other utilities and
- 21 with the Executive Director.
- I'll say from my part, and for the IEPR
- 23 Committee, when and if you bring it back to the
- 24 full Commission I think you should be prepared to
- 25 address whatever collaborative recommendations you

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1 have as to their consistency with our statute and
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- 2 our regs.
- 3 MS. URICK: Definitely. And that sounds
- 4 like a very good approach. So, the only question
- 5 was whether it was intended that the collaborative
- 6 process would also sort of sweep within its scope
- 7 the November 30th data. It sounds like you're
- 8 assuming that it would.
- 9 COMMISSIONER GEESMAN: I'm assuming that
- 10 it's something that we don't need to decide and
- 11 you can work out with the Executive Director.
- MS. URICK: Right. So, I mean, for your
- 13 purposes it makes more sense for us to then
- 14 technically withdraw the appeal, then that's
- 15 certainly fine with us.
- 16 CHAIRMAN KEESE: I think that would be
- 17 appropriate. Mr. Therkelsen, would you care to
- observe what staff's position is?
- 19 MR. THERKELSEN: No, I think staff would
- 20 be more than willing to work with the utilities
- 21 and the other parties in this to figure out the
- 22 best way to handle this. A collaborative approach
- is very appropriate to do that. And it's
- something we're going to need to jump on very soon
- 25 to be able to get it effective for not only this

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filing, but all of them.
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- 2 CHAIRMAN KEESE: The appeal is
- 3 withdrawn?
- 4 MS. URICK: That's right.
- 5 CHAIRMAN KEESE: Thank you.
- 6 MS. URICK: Thank you very much.
- 7 CHAIRMAN KEESE: Mr. Chamberlain.
- 8 MR. CHAMBERLAIN: I'm sorry, I just want
- 9 to clarify what is the status then of the November
- 30th filing is, because the Executive Director's
- decision said, look, this is public information;
- it's been publicly available; we don't have any
- 13 basis for --
- 14 CHAIRMAN KEESE: My understanding was --
- MR. CHAMBERLAIN: -- holding it
- 16 confidential.
- 17 CHAIRMAN KEESE: -- that it is public
- information subject to later discussion in the
- 19 collaboration that might --
- 20 MR. CHAMBERLAIN: Well, --
- 21 CHAIRMAN KEESE: But it will be public
- 22 from now --
- MR. CHAMBERLAIN: -- there will be a 14-
- 24 day period now in which SDG&E can go to court and
- 25 challenge the Executive Director's decision and

1 your decision, except that they've withdrawn their

- appeal now, so I guess that probably won't happen.
- But there's a 14-day period. After that
- 4 we don't have any basis for preventing this
- 5 information from going to the public if there's a
- 6 Public Records Act request.
- 7 COMMISSIONER GEESMAN: Then I believe I
- 8 heard them say that they were accepting the
- 9 Executive Director's earlier ruling. I don't --
- 10 CHAIRMAN KEESE: Okay, item 3 is off.
- 11 At this time we have Commissioner
- 12 Rosenfeld in front of us, who has been
- reappointed. So we're going to do an oath of
- office at this time.
- 15 COMMISSIONER ROSENFELD: Bill, I have to
- 16 tell you the Governor says he's appointing, not
- 17 reappointing.
- 18 CHAIRMAN KEESE: Appointing, not
- 19 reappointing. That's fine. Well, this is the
- 20 oath of office for the Office of Member State
- 21 Energy Resources Conservation and Development
- 22 Commission.
- "I, Arthur Hinton Rosenfeld, --"
- 24 COMMISSIONER ROSENFELD: I, Arthur
- 25 Hinton Rosenfeld --

1	CHAIRMAN KEESE: "do solemnly swear
2	or affirm"
3	COMMISSIONER ROSENFELD: do solemnly
4	swear
5	CHAIRMAN KEESE: "that I will support
6	and defend the Constitution of the United
7	States"
8	COMMISSIONER ROSENFELD: that I will
9	support and defend the Constitution of the United
10	States"
11	CHAIRMAN KEESE: "and the
12	Constitution of the State of California"
13	COMMISSIONER ROSENFELD: and the
14	Constitution of the State of California"
15	CHAIRMAN KEESE: "against all
16	enemies, foreign and domestic."
17	COMMISSIONER ROSENFELD: against all
18	enemies, foreign and domestic."
19	CHAIRMAN KEESE: "That I will bear true
20	faith and allegiance"
21	COMMISSIONER ROSENFELD: That I will
22	bear true faith and allegiance"
23	CHAIRMAN KEESE: "to the Constitution
24	of the United States,"
25	COMMISSIONER ROSENFELD: to the

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1 Constitution of the United States, --
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- 2 CHAIRMAN KEESE: -- "and the
- 3 Constitution of the State of California."
- 4 COMMISSIONER ROSENFELD: -- and the
- 5 Constitution of the State of California.
- 6 CHAIRMAN KEESE: "And I take this
- 7 obligation freely" --
- 8 COMMISSIONER ROSENFELD: And I take this
- 9 obligation freely --
- 10 CHAIRMAN KEESE: -- "without any mental
- 11 reservation or purpose of evasion" --
- 12 COMMISSIONER ROSENFELD: -- without any
- mental reservation or purpose of evasion, --
- 14 CHAIRMAN KEESE: -- "and that I will
- 15 well and faithfully discharge the duties" --
- 16 COMMISSIONER ROSENFELD: -- and that I
- 17 will well and faithfully discharge the duties --
- 18 CHAIRMAN KEESE: -- upon which I'm about
- 19 to enter."
- 20 COMMISSIONER ROSENFELD: -- upon which
- 21 I'm about to enter.
- 22 CHAIRMAN KEESE: Congratulations.
- 23 (Applause.)
- 24 UNIDENTIFIED SPEAKER: He hasn't signed
- 25 it yet.

1	(Laughter.)
2	CHAIRMAN KEESE: Thank
3	COMMISSIONER ROSENFELD: I want to say
4	just about one sentence, and that is I've never
5	enjoyed working with a more collegial group. I've
6	been here nearly five years. I can barely
7	remember a vote that wasn't unanimous. I really
8	enjoy working with colleagues who are this
9	collegial and trust one another and work with one
10	another. And that applies to the staff, too.
11	And it's been a real pleasure for the
12	last five years, and it's going to be a real
13	pleasure for the next. Thank you.
14	(Applause.)
15	CHAIRMAN KEESE: Thank you, Commissioner
16	Rosenfeld. Stay for a moment, please.
17	This is very difficult for me. I
18	informed the Governor this morning that I'm
19	resigning, effective March 4th. It's been an
20	eight-year run; I've been happy to be here. I
21	didn't ask Governor Gray Davis to reappoint me; he
22	did. I thought I'd leave before this Governor
23	came in. I was asked to stay. But, as I say,
24	eight years has gone.

You know, I read an article last week

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1 after I had made my decision by William Safire.
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- 2 And he spoke about the end of his 3000
- 3 commentaries and where he's moving on to. And he
- 4 ended by saying, "when you're finished changing,
- 5 you're finished."
- 6 So I bid you farewell, and as I say,
- 7 it's very emotional for me. But I'm going to move
- 8 on starting on March 4th.
- 9 Thank you.
- 10 (Applause.)
- 11 CHAIRMAN KEESE: I'll say more later.
- 12 Item 3, --
- 13 COMMISSIONER GEESMAN: Mr. Chairman, --
- 14 CHAIRMAN KEESE: Commissioner Geesman.
- 15 COMMISSIONER GEESMAN: -- I guess I'd
- like to be recognized before we get to item 3.
- 17 I'm taken aback and I think that the rest of us in
- the room are, as well, by your announcement.
- 19 And I do want to take the opportunity to
- say that in the two and a half years that I've
- 21 been here, and I think the years before that, as
- 22 well, you have graced this place with your
- 23 presence and a style of leadership that has made
- 24 all of us, including the institution, quite a bit
- 25 stronger than it would have been otherwise.

I know that these plural bodies,

2	particularly those appointed by different
3	governors, can be quite divisive environments, and
4	certainly the issues that we deal with lend
5	themselves to a substantial amount of
6	divisiveness. A lot of public issues doe.
7	But I think that the style that you have
8	brought to your responsibilities and the ways in
9	which you have dealt with me and with each of us
10	have really helped us to overcome those
11	differences. And have contributed to a method of
12	doing business, a method of interacting with the
13	staff that has made it a much stronger place.
14	And I think the renewed stature that
15	this Commission has enjoyed the past couple of
16	years is directly attributable to the contribution
17	you've made. And I think we are all grateful for

- 19 CHAIRMAN KEESE: Let me --
- 20 COMMISSIONER PFANNENSTIEL: Mr.
- 21 Chairman.

that.

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- 22 CHAIRMAN KEESE: Let me slip one more
- 23 thing in here that I had intended to say and will
- 24 say in an email to you. You know Governor
- 25 Schwarzenegger and Governor Richardson have put

1 together a committee of the Western Governors to

- 2 achieve 30,000 megawatts of clean and diverse
- 3 energy in the west.
- I was fortunate enough to get nominated
- 5 to be on that committee, and informed last week
- 6 that I am the co-Chair of that committee. And I
- 7 have been asked to continue in that work for the
- 8 next 16 months.
- 9 So I will be seeing you around doing
- 10 that effort, not in an official capacity, but in
- 11 whatever capacity I happen to be as I move forward
- 12 with my life. And for your information, there is
- 13 no capacity for my future life at this time. I'm
- intending to take a little time off.
- 15 Commissioner Pfannenstiel.
- 16 COMMISSIONER PFANNENSTIEL: As usual, I
- wont try to approach Commissioner Geesman's
- 18 eloquence, but I would like to say personally, and
- 19 I'm sure on behalf of the other Commissioners, and
- I think on behalf of all who are here, how much
- 21 we'll miss you personally and professionally.
- I certainly share John's view of what
- you've brought to this Commission. As a newcomer
- here, I came in and saw it immediately and
- 25 appreciated it from the first day.

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1 So it will be a different place, and I'm
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- 2 awfully glad to hear that you're going to continue
- 3 to participate in these activities. We will see
- 4 you around. It won't be the same. But I think we
- 5 can all appreciate the time we've spent with you
- 6 as our Chair. Thank you.
- 7 CHAIRMAN KEESE: Thank you.
- 8 COMMISSIONER ROSENFELD: Coming last
- 9 it's hard to say much new, but I just want to
- 10 repeat, I'm just awed at how you've made this
- 11 place work. The style has been wonderful, the
- 12 fairness has been wonderful, the collegiality has
- been wonderful. And we'll sure as heck miss you,
- 14 Bill.
- 15 CHAIRMAN KEESE: Thank you, all. I
- 16 appreciate it.
- 17 (Applause.)
- 18 CHAIRMAN KEESE: All right, item 3. El
- 19 Segundo Power II LLC Redevelopment Project.
- 20 Possible approval of the Commission's new proposed
- 21 decision and errata. Mr. Chamberlain.
- MR. CHAMBERLAIN: Yes, Mr. Chairman. At
- 23 the last meeting the Commission voted to
- 24 reconsider this matter in order to make some
- 25 additional findings that had not made their way

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1 into the original decision.
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- And as you may recall, the applicant
 encouraged you to wait until this meeting to
 actually take up the decision, the adoption of a
 replacement decision, feeling that that would be
 appropriate to insure that everyone had adequate
 notice of what you were about to do.
- And so you have before you a decision

 which has incorporated all of the errata,

 including those that were adopted originally on

 December 23rd. And the new errata that
- 13 CHAIRMAN KEESE: Thank you. Mr.

Commissioner Geesman had proposed.

14 McKinsey.

- MR. McKINSEY: Well, I don't really have 15 anything to add to that. I think we made our 16 17 specific point. I'll make it one more time really briefly, and that is just that we don't disagree 18 19 with what you're doing, but we also don't think 20 that it's completely necessary; and that's 21 particular with regard to the status that the 22 Coastal Commission is being given in the decision 23 in terms of recognizing that 30413(d) report.
- But other than that what you're doing is caution and we don't have any objections to that.

1	CHAIRMAN KEESE: This is our
2	administrative effort to insure consistency of
3	this decision with prior decisions of this
4	Commission. Thank you.
5	We have a number of people on the phone.
6	Tracy Egoscue. Tracy?
7	MR. PALMER: Good morning, everyone.
8	I'm David Palmer, Staff Attorney with Santa Monica
9	Baykeeper and representing environmental
10	intervenors.
11	First we wanted to congratulate Chairman
12	Keese on his service to our state, even though we
13	don't agree with him on everything to date, we
14	appreciate his service and congratulate him.
15	I'd like to turn the Commission's
16	attention to page 8 of the order on
17	reconsideration. On page 8 you'll find findings
18	and conclusions; you'll find five points at the
19	bottom of that page. The fourth point reads as
20	follows:
21	"Applicant and staff have met with
22	representatives of the Coastal Commission in an
23	attempt to resolve any potential LORS
24	noncompliance."

And we would like the Commission to

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1 consider striking this point in light of what was
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- 2 in a letter from the Coastal Commission to the
- 3 Energy Commission in their letter of January 19,
- 4 2005.
- 5 On the bottom of page 3 of that letter,
- 6 I'm going to quote, the last two words on that
- 7 page are: "There have..." and on the next page it
- 8 continues, "There have been no meetings between
- 9 the applicant and the Coastal Commission to
- 10 attempt to resolve the noncompliance issues." End
- of quote.
- 12 The letter goes on to say that there has
- 13 been no sufficient meetings between Energy
- 14 Commission, itself, and the Coastal Commission.
- So it does not appear, at least for the Coastal
- 16 Commission, that there's a basis for finding and
- 17 conclusion number four at this time.
- Thank you.
- 19 CHAIRMAN KEESE: Thank you. Mr.
- 20 Chamberlain.
- 21 MR. CHAMBERLAIN: Yes, Mr. Chairman. Of
- 22 course, that finding follows the statutory
- 23 language in section 25523 and 25525. Although
- this is a situation in which the Commission has
- found that, in fact, there is compliance with the

1 Coastal Act and with the local coastal plan, one

- 2 could argue, well, then you haven't had the
- 3 meetings that are anticipated by the statutes when
- 4 you find that there is not compliance.
- I think the purpose of this statute --
- 6 of this finding is simply to note the many
- 7 meetings that have occurred throughout this
- 8 proceeding in which staff and the Committee have
- 9 certainly met with representatives of the Coastal
- 10 Commission in an effort to understand where the
- 11 points of difference are.
- 12 And the purpose of the extra findings
- 13 that we're putting in here are, of course, to say
- 14 that if it turns out that we were wrong in our
- 15 determination that this complies with the Coastal
- Act, then we are at least advising the world we
- would make the findings in section 25525.
- 18 And I'll note that footnote one of the
- 19 override section more or less explains this.
- 20 CHAIRMAN KEESE: Thank you. Mr. Palmer,
- 21 are you speaking for Tracy and Craig?
- MR. PALMER: Yes, I am. And
- 23 unfortunately, the lady who handles the telephone
- 24 callers interrupted Mr. Chamberlain's points. And
- 25 I just wanted to gain clarification whether he

said that, in fact, the Energy Commission did meet

- with the Coastal Commission. I apologize for not
- 3 hearing it, but like I said, the lady came on and
- 4 totally blocked the hearing.
- 5 CHAIRMAN KEESE: Mr. Chamberlain, would
- 6 you reiterate --
- 7 MR. CHAMBERLAIN: What I said was that
- 8 there were many meetings throughout the proceeding
- 9 in which members of staff, the Committee and the
- 10 Coastal Commission discussed these issues in great
- 11 detail. And I think that is the purpose of that
- 12 finding.
- 13 And also, that to the extent that any
- 14 further explanation of that finding is necessary,
- it is found in footnote one of the override
- 16 section.
- 17 MR. PALMER: We appreciate that
- 18 clarification, thank you.
- 19 CHAIRMAN KEESE: Thank you. Mr.
- 20 Perkins, on the phone?
- 21 MR. PERKINS: My own comments are that I
- 22 think there's a larger mistake being made than the
- 23 stuff that's on the table, and that is to go
- forward without determining the amount, if any. I
- 25 guess that's not even on the table.

1 Clearly there's some damage to be caused
2 in Santa Monica Bay, new power plant. And so the
3 question is how much and how much remedial action
4 should be taken. I would urge the Commission to
5 take this opportunity, or if it feels it should
6 give more notice, a later opportunity, and re7 reconsider (inaudible) to require (inaudible) or
8 equivalent study.

Having said that, today's issue doesn't seem to me to be a large one. I'm an old submariner, we have a tendency to say things in kind of a crude fashion. But on the submarines there's (inaudible) called a CYA move that the Commission is considering. And I understand why people make CYA moves. Sometimes they work, sometimes they backfire. But their purpose is not really to improve the decisionmaking process, just to make it harder to be looked at later.

So, you know, you have to make your own decision about that. That's all I have to say to that.

CHAIRMAN KEESE: Thank you. Do we have anybody else on the phone? Thank you. Is there any other comment in the audience on this issue?

We have an order on reconsideration

1 providing a new decision and errata. Do I have a

- 2 motion on the order?
- 3 COMMISSIONER GEESMAN: So moved.
- 4 CHAIRMAN KEESE: Motion, Geesman.
- 5 COMMISSIONER PFANNENSTIEL: Second.
- 6 CHAIRMAN KEESE: Second, Pfannenstiel.
- 7 All in favor?
- 8 (Ayes.)
- 9 CHAIRMAN KEESE: Opposed? Adopted four
- 10 to nothing. Thank you, everyone.
- 11 Item 4, 2005 Integrated Energy Policy
- 12 Report. Consideration to initiate enforcement
- activities for certain load-serving entities. I
- 14 believe this will not be an action item, but we're
- going to get a status report.
- MR. PERKINS: If the Commission will
- 17 excuse me, this is Bob Perkins again. Do you have
- 18 any objection to my leaving at this point? That
- 19 was the only item on the agenda that I'm involved
- 20 in.
- 21 CHAIRMAN KEESE: No, that's fine.
- MR. PERKINS: Thank you very much.
- 23 CHAIRMAN KEESE: Thank you.
- MR. PERKINS: Good-bye.
- MR. KENNEDY: Thank you, Mr. Chairman.

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1 I'm Kevin Kennedy, the Program Manager for the

- 2 2005 Integrated Energy Policy Report proceeding.
- 3 As you noted, at this point this has
- 4 become rather than an action item, an information
- 5 item. It had originally been on the agenda for
- the business meeting two weeks ago to consider
- 7 possible enforcement action against PG&E and
- 8 Southern California Edison for failure to file
- 9 adequate information on retail prices consistent
- 10 with forms and instructions that had been adopted
- on November 3rd.
- 12 The day before that meeting we had
- 13 received filings from both utilities. And since
- that meeting the staff has reviewed those filings
- 15 and has found that those filings do meet the --
- 16 provide the requested information.
- 17 So there is not, at this point, a need
- 18 for any possible enforcement action related to the
- 19 retail price filings.
- I do want to take this opportunity,
- 21 though, to give an initial report to the
- 22 Commission on the status of the next round of data
- 23 filings. Also on the November 3rd package of
- 24 forms and instructions that were adopted were
- 25 instructions to file demand forecasts by all of

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1 the load-serving entities with loads over 200
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- 2 megawatts in the state.
- 3 Those filings were due yesterday. At
- 4 this stage we have filings inhouse as of the first
- thing this morning from both SDG&E and PG&E. It's
- 6 my understanding that Southern California Edison
- 7 is in the final stages of putting together a
- 8 package, including an application for
- 9 confidentiality for some or all of that data. And
- 10 we're expecting that very shortly.
- 11 We have also already received the
- 12 filings for three of the irrigation districts,
- 13 Modesto, Turlock and Imperial Irrigation District.
- 14 We will be following up with the other LSEs that
- 15 we expect filings from. In the coming days I
- 16 would expect that most, if not all of those,
- 17 additional filings will be in in the next few days
- 18 or next week.
- 19 And I would suggest that we come back to
- 20 you in two weeks at the next business meeting with
- 21 further information on the status of those demand
- 22 filings. And if the Commission is interested, we
- 23 could also return to the question of possible
- 24 enforcement action on those filings, if necessary,
- at that meeting.

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1 CHAIRMAN KEESE: You're suggesting we
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- put it over for two weeks?
- 3 MR. KENNEDY: Essentially it would be a
- 4 new item, since this item was specifically aimed
- 5 at the retail price filings. And so the next item
- 6 would be very similar.
- 7 CHAIRMAN KEESE: Two weeks? Four weeks?
- 8 What --
- 9 MR. KENNEDY: Two weeks.
- 10 CHAIRMAN KEESE: Two weeks.
- MR. KENNEDY: Yeah.
- 12 CHAIRMAN KEESE: Thank you. The
- 13 Executive Director will take that under
- 14 consideration. Thank you for your report.
- 15 Item 5, Distributed Generation
- 16 Interconnection Rules. Possible approval of an
- 17 Integrated Energy Policy Report Committee report
- 18 recommending changes to interconnection rules
- 19 contained in rule 21 utility tariffs. Mr.
- Tomashefsky.
- MR. TOMASHEFSKY: Good morning,
- 22 Commissioners. For the record, I'm Scott
- 23 Tomashefsky. I've had the pleasure, and still
- 24 have the pleasure of serving as Chairman Keese's
- 25 Advisor. And as all of us do, we wish you much

1 success in whatever endeavors you choose to take.

1 I'm sitting here with Mark Rawson, who

3 is with the PIER ESI program. And we are pleased

4 to bring before you an IEPR Committee

5 recommendation with recommended changes to

6 interconnection rules.

As general background, we have been collaborating with the CPUC on DG issues since late 1998. And in 2000 we actually brought two documents that had changes to interconnection rules, which in essence were adopted here, transferred to the PUC, ultimately adopted there and became the rule 21 tariffs that are now contained in the utility tariff booklets for PG&E, Edison and San Diego Gas and Electric.

We've also had the pleasure of overseeing the rule 21 working group which has been technical advisers to much of what you see in the report. And we all work quite closely with the PUC on some of these matters.

There were several outstanding DG issues that were left on the table when the proceedings were done in 1999. In the spring of 2004 we started a series of proceedings both here and at the PUC, which is really the genesis for the

1 report before you, which is based on an August

- 2 scoping order.
- 3 This document has been certainly part of
- 4 the public process. We've had a release of a
- 5 working group report which is based on several
- 6 working group meetings that were held in September
- 7 and in August. There were comments on the report.
- 8 A hearing was held in early December by the IEPR
- 9 Committee, with the recommendations you see before
- 10 you released on the 6th of January.
- 11 What we have had are comments filed by
- five parties, Edison, PG&E, the Cogen Association,
- 13 EPUC, the City of San Diego and Blue Point Energy.
- 14 Of the group of comments that were submitted.
- I would probably characterize the most
- 16 aggressive comments and critique probably filed by
- 17 Edison, although in discussing the issue with some
- of the representatives, their comments that are
- 19 more critical are more policy-laden questions.
- 20 Such as how do we deal with net metering policy in
- 21 the future. Not just looking at the
- interconnection issues of the item.
- 23 And that also goes with respect to
- 24 metering issues in general, in dealing with how to
- 25 account for revenues with non-bypassable

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1 surcharges and all those type of things.
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later date.

- So there's some issues that go beyond
 the scope of what we are looking to accomplish
 here, but Edison specifically has used them more
 for placeholders to make sure that the issue keeps
 in the public process and should be addressed at a
- In terms of the recommendations, there's
 five areas that we've grouped here in the report.

 A couple of them deal with requiring additional
 technical work from the rule 21 group. There's
 issues that, in essence, haven't been fully baked,
 but are necessary for moving forward with
 standardized interconnection rules.
- Just as an example, we have

 interconnection rules that deal with radial

 systems, so when electrons travel from point A to

 point B, it's the protection requirements

 associated with that. Now, we're looking at

 developing spot network interconnection rules.
- 21 And where we don't necessarily know
 22 where the electrons are going quite so much,
 23 there's a lot more complexity associated with
 24 those type of things.
- 25 Another technical area really looks at

1 the issue of how you deal with projects that have

- 2 two generating components or more, some that are
- 3 net metered and some that are not net metered.
- And a lot of the problems that we have come across
- 5 here in the debates we've had over the past few
- 6 years have not been really dealing with the
- 7 technical aspects of the interconnection, but more
- 8 the metering aspects of the interconnection. They
- 9 just seem to be commingled quite frequently.
- The other three areas, just briefly, are
- 11 recommendations that deal with the dispute
- 12 resolution process, trying to tighten up some of
- the language associated with that. And there's
- some other nuances, as well.
- 15 We had revisited the interconnection fee
- 16 structure that was set up. And the Committee had
- 17 recommended that we didn't need to change those
- 18 fee structures at this time, but suggested that a
- 19 tracking system be developed so that if we want to
- 20 pose the question a couple years out, we'll have
- an opportunity to do that in the future.
- 22 And finally, we dealt with an issue of
- revenue. The net gen output meter, which is in
- 24 essence what's used to try and determine what the
- 25 utilities should bill the customer when you take

1 into consideration net meter technologies and the

- like. It was very controversial. And the
- 3 conclusions that the Committee reached led to the
- 4 conclusion that estimation, as opposed to actual
- 5 billing, was appropriate. And also that if there
- 6 was a desire to have a nonutility meter available
- 7 as part of that interconnection, that it would
- 8 just need to meet just general standards that are
- 9 set up similar to the direct access rule 22
- 10 approach.
- 11 So, that's in essence what's in there.
- 12 In terms of if we do get a positive approval on
- this particular item, what would happen next is
- that the document, itself, would be cleaned up to
- 15 reflect changes from IEPR Committee to Commission
- 16 recommendations.
- 17 The document and the comments that were
- 18 submitted on January 6th would then be submitted
- 19 to the CPUC within the next two weeks under
- 20 Executive Director's signature.
- 21 The CPUC would then develop that report
- into its proposed decision, as it's the
- jurisdictional entity here. And we suspect they
- 24 would offer parties an opportunity to comment on
- some of the cost allocation implications of some

of the recommendations that we've put in this

- 2 report.
- 3 And then the approval would then shift
- 4 to implementation activities for the rule 21
- 5 working group to develop advice letters.
- Just as a final note, I do appreciate
- 7 the stakeholder involvement we've had. You'll see
- 8 a lot of the names and affiliations in the report.
- 9 And I also want to thank not only our own
- 10 Commission, but PIER management for really
- 11 providing the funding support for our technical
- 12 support in this project this time, and really over
- 13 the past six years. None of this would be
- possible without their efforts.
- So, I offer up the report.
- 16 CHAIRMAN KEESE: Thank you.
- 17 Commissioner Geesman.
- 18 COMMISSIONER GEESMAN: Well, I think
- 19 that we also owe a real vote of thanks to Scott
- 20 for heading this effort up, because it is
- immensely complex. And as you well know, Mr.
- 22 Chairman, very time-consuming for him.
- We've benefitted --
- 24 CHAIRMAN KEESE: I know that well.
- 25 COMMISSIONER GEESMAN: We've benefitted

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from a very productive stakeholder process. And I
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- 2 think that a number of these issues are not going
- 3 to go away and do require substantial further
- 4 effort on the part of the rule 21 working group.
- 5 So we will be bringing these items or
- 6 related items back in front of he full Commission
- 7 in the months ahead. But it's now time to send
- 8 our recommendations down to the PUC and allow them
- 9 to address them, as well.
- I would move the recommendation.
- 11 CHAIRMAN KEESE: Motion, Geesman.
- 12 COMMISSIONER ROSENFELD: Second.
- 13 CHAIRMAN KEESE: Second, Rosenfeld. Any
- 14 further comments?
- 15 All in favor?
- 16 (Ayes.)
- 17 CHAIRMAN KEESE: Opposed? Adopted four
- 18 to nothing. Congratulations.
- MR. TOMASHEFSKY: Thank you.
- 20 CHAIRMAN KEESE: Six years work. Mr.
- 21 Rawson, also.
- Item 6, Knowledge Structures, Inc.
- 23 Consideration to amend existing California
- 24 multiple awards schedule adding \$249,250 and
- extend the contract from August 31, 2005 to

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January 31, 2006. Good morning, Rasa.
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- MS. KEANINI: Good morning,
- 3 Commissioners. For the record my name is Rasa
- 4 Keanini. I'm the program lead for the Western
- 5 Renewable Energy Generation Information System,
- 6 commonly referred to as WREGIS.
- 7 The item that we bring before you today
- 8 is an amendment to the contract with Knowledge
- 9 Structures, Inc. This is a time extension as well
- 10 as a request for additional funding. This
- 11 amendment is instrumental in the development of
- 12 WREGIS.
- 13 In April 2004 the Energy Commission
- 14 contracted with Knowledge Structures, Inc. for
- 15 them to conduct a feasibility study analysis and
- write the feasibility study report for WREGIS.
- 17 They have completed that work. This
- 18 amendment would allow Knowledge Structures, Inc.
- 19 to assist staff in preparing, evaluating and
- awarding a request for proposal for the software
- 21 for WREGIS, for the technical software and the
- operation of that technical software.
- The main reason for this is the Energy
- 24 Commission Staff lacks expertise necessary to
- 25 develop this type of RFP for this specific type of

4	C .				7	
1	software.	IT'S	а	verv	complex	SVSTEM.

- The amendment extends the agreement term
- 3 from August 31, 2005 to January 31, 2006, and adds
- 4 \$249,250 to the contract, using consumer education
- 5 program funds.
- 6 On January 24, 2005, the Renewables
- 7 Committee approved the extension of the agreement
- 8 term, as well as the use of consumer education
- 9 program funds to fund this amendment. So today
- 10 we're asking for your approval on the Committee's
- 11 recommendation to extend the agreement term and
- 12 authorize the additional funding for the
- 13 amendment.
- 14 CHAIRMAN KEESE: Thank you.
- 15 COMMISSIONER GEESMAN: I'd move the
- 16 item.
- 17 CHAIRMAN KEESE: Motion, Geesman.
- 18 COMMISSIONER PFANNENSTIEL: Second.
- 19 CHAIRMAN KEESE: Second, Pfannenstiel.
- 20 All in favor?
- 21 (Ayes.)
- 22 CHAIRMAN KEESE: Opposed? Adopted four
- to nothing.
- 24 Thank you; this is very important for
- 25 the benefit of the whole west. It's a good

1	program.

- MS. KEANINI: Thank you.
- 3 CHAIRMAN KEESE: Item 7, Lawrence
- 4 Berkeley National Laboratory. Possible approval
- of work authorization number MR-036, PIER research
- 6 agreement 500-02-004, for up to \$1,600,000 to
- 7 develop and conduct demonstrations of real-time
- 8 software tools for the electric transmission
- 9 system operation and reliability.
- 10 MR. PATTERSON: Yes, I am Jamie
- 11 Patterson of the PIER transmission research team.
- 12 And I do the administrative paperwork for the
- 13 project.
- 14 With me today I'd like to introduce to
- the Commissioners our technical expert in this
- 16 area, Mr. Virgil Rose. Between the two of us we
- 17 hope to be able to answer any questions you may
- 18 have on this project.
- Okay, well, we would like permission and
- 20 approval of this work authorization. What this
- 21 will do is it will provide the operators with
- 22 real-time information to help them make decisions,
- 23 to hopefully improve the reliability of the
- operation of the electrical transmission grid.
- 25 And I welcome any questions you may

- 2 CHAIRMAN KEESE: Okay.
- 3 COMMISSIONER GEESMAN: Move the item.
- 4 CHAIRMAN KEESE: Motion, Geesman.
- 5 COMMISSIONER ROSENFELD: Second.
- 6 CHAIRMAN KEESE: Second, Rosenfeld.
- 7 All in favor?
- 8 (Ayes.)
- 9 CHAIRMAN KEESE: Opposed? You got your
- 10 money, and --
- MR. PATTERSON: We thank you.
- 12 CHAIRMAN KEESE: -- it's because we know
- everything about this that we have no questions.
- I have the minutes in front of us. Do I
- have a motion on the minutes?
- 16 COMMISSIONER ROSENFELD: I move the
- minutes.
- 18 CHAIRMAN KEESE: Motion, Rosenfeld.
- 19 COMMISSIONER PFANNENSTIEL: Second.
- 20 CHAIRMAN KEESE: Second, Pfannenstiel.
- 21 All in favor?
- 22 (Ayes.)
- 23 CHAIRMAN KEESE: Opposed? Adopted four
- to nothing.
- 25 Commission Committee and Oversight.

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l	report.
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- 2 MR. CHAMBERLAIN: Yes, Mr. Chairman.
- 3 Yesterday I received a document in the mail from
- 4 Robert Sarvey entitled, demand to correct or cure
- 5 violations to the Bagley-Keene Open Meeting Act.
- 6 I've done some analysis of this document
- 7 and I want to explain to you my conclusions with
- 8 respect to it, because I propose to send him a
- 9 letter back explaining what happened and where he
- 10 can go from here.
- 11 My conclusion is that there was no
- 12 violation of the Open Meetings Act. What happened
- 13 here, you may recall when the Tesla project was
- 14 completed on August 11th with the denial of
- 15 petitions for reconsideration, there was a period
- in which CARE was preparing to file a petition in
- 17 the California Supreme Court seeking judicial
- 18 review of that decision. And they did and
- 19 approximately a month later the Supreme Court
- denied that petition.
- 21 However, on September 7th Mr. Sarvey
- 22 submitted what he styled a complaint which
- 23 complained about some, what he alleged were
- shortcomings in the handling of the matter by the
- 25 Committee.

When I looked at that document I 1 2 realized that he was asking basically, in part, 3 for an investigation of the conduct of the proceeding by the Committee. And the regulations 5 require us to act on a complaint like that within 30 days. So I looked at the Commissioners' 8 schedules during the next two business meetings, and determined that at the one that we would 10 normally handled it on, which would have been the 11 October 6th meeting, there were only going to be 12 three Commissioners there, including the Chair of 13 the Committee. Whereas on the September 22nd 14 meeting, we had a full Commission available. 15 So, I made an effort to get that on that agenda for September 22nd, which was a rather 16 17 rapid turnaround for that. The agenda did get the correct item on it, but unfortunately the agenda 18 19 that was posted, or perhaps had already been 20 posted on the internet, was never changed. 21 And Mr. Sarvey was served, it's my 22 understanding, with the agenda by email. But he

has aol and it may very well be that he hasn't put

us in as one of the people that, you know, that

can get by his bulk mail. And so he may never

23

24

1 have seen the agenda that we put out that had his

- 2 item on it.
- 3 And that may be why, I think we were all
- 4 somewhat surprised that he wasn't there that day.
- 5 So I'm going to write him a letter and
- 6 explain all of this. If he wants to come back to
- 7 the Commission and talk about this item he
- 8 certainly should be welcome to do so. But I have
- 9 indicated to him that there are limitations on
- 10 what the Commission can do.
- If he wants to make suggestions for how
- 12 the siting process can work better in the future I
- 13 think that should be welcome. To the extent that
- 14 he thinks that the Commission can go back and re-
- decide the Tesla case, that's outside our
- 16 jurisdiction at this point.
- 17 CHAIRMAN KEESE: Thank you. Any
- 18 questions for Mr. Chamberlain?
- 19 MR. CHAMBERLAIN: One more item. I will
- 20 have a brief closed session on a potential
- 21 litigation matter.
- 22 CHAIRMAN KEESE: Thank you.
- 23 Legislative Director's report. We have
- none.
- 25 Public Adviser's report.

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                   Did I go by the Executive Director,
 2
         there?
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                   MR. THERKELSEN: You skipped me.
 4
                   CHAIRMAN KEESE: All right.
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                   MR. THERKELSEN: That's okay. Good
 6
         morning, Commissioners. Three brief reports.
                   First of all, speaking on behalf of the
 8
         staff, our congratulations, and we're glad to see
 9
         that you are going to be here for another five
10
         years, and most staff are betting you're going to
11
         be here for another five years after that.
12
                   (Laughter.)
13
                   MR. THERKELSEN: And the second report
14
         is, Jackie, on behalf of the staff, we're wishing
         you the best this afternoon, and looking forward
15
         to working with you for ten more years.
16
17
                   (Laughter.)
18
                   COMMISSIONER PFANNENSTIEL: Thanks, Bob.
19
         Five.
20
                   MR. THERKELSEN: And then lastly, again
21
         on behalf of the staff, Bill, we really appreciate
22
         your leadership. It's a pleasure to call you
23
         Chair and look forward to doing that for at least
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another four more weeks. But we very much

appreciate your leadership, the style, the tone

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1 that you brought here.
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2 And most people, I don't think, really 3 realize how much you have done for the Commission, 4 particularly behind the scenes, in terms of 5 helping us outreach to the broader community of energy, to be represented in many forums, not only in the state, but nationally and internationally. R And how our reputation has grown because of your representation of us. And I sincerely appreciate 10 it, and I sincerely will miss you. 11 CHAIRMAN KEESE: Thank you. 12 Public Adviser's report. 13 MS. KIM: I just wanted to briefly 14 remind everyone that on Monday, February 14th, at 9:30 a.m., in the City of Martinez Council 15 Chambers, the Siting Committee will hold its 16 17 workshop on petroleum infrastructure best 18 permitting practices.

And also this afternoon I was out, as part of our ongoing monthly international energy briefing, we had a speaker from Stanford. He's the Director of Program on Energy and Sustainable Development Center. And he's a Russian expert, and he'll be speaking about Russian oil and gas and implications for California.

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1 CHAIRMAN KEESE: Thank you. This is the
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- time for public comment, and unless we have
- 3 somebody in the audience, we have Mr. Ajlouny on
- 4 the phone, and Steve Nelson. Welcome back Issa.
- 5 MR. AJLOUNY: I'd like Steve to speak
- first, he's the one that called first. He has
- 7 more of an issue than I do.
- 8 CHAIRMAN KEESE: Mr. Nelson.
- 9 MR. AJLOUNY: Is he not --
- THE REPORTER: Who is speaking?
- 11 CHAIRMAN KEESE: That was Issa. Do we
- have Mr. Nelson? Steve, your line's open.
- MR. AJLOUNY: He might have it on mute.
- 14 CHAIRMAN KEESE: Steve? We're not
- hearing anything. We're hearing nothing from Mr.
- 16 Nelson. We understand his line is open.
- 17 Issa, why don't you go forward.
- 18 MR. AJLOUNY: Hello. The lady just came
- on and said Steve wasn't there?
- 20 CHAIRMAN KEESE: We have an open line
- 21 with Steve Nelson, but we're not hearing anything.
- MR. AJLOUNY: Okay, I wonder why that
- is. But he's been waiting for quite a long time
- 24 to speak. That's too bad.
- MR. NELSON: Can you hear me now?

1	CHAIRMAN KEESE: Is that Steve?
2	MR. NELSON: That was Steve speaking.
3	CHAIRMAN KEESE: You're on.
4	MR. NELSON: Okay, thank you.
5	My name is Steve Nelson, a resident near
6	the Metcalf Energy Center. And before I make a
7	complaint I would like to say that in general I
8	think the Energy Commission has done an excellent
9	job in providing public outreach for the whole
10	certification process.
11	I'd like to point out that I think for
12	the compliance proceedings some improvements could
13	be made to continue that high level of public
14	participation.
15	Just some quick background. In the
16	middle of January Steve Munro was in San Jose for
17	an update meeting, and I expressed my concerns to
18	him about public knowledge and access to
19	compliance proceeding documents, such as staff
20	data requests and possible responses from the
21	applicant.
22	And Mr. Munro asked me to email my
23	request in a more formal method to the Energy
24	Commission. And I did that the next day.

Last Friday I received a letter from

1 staff counsel Tom Glaviano, and it was a strange

- 2 response. He said that he was unable to meet my
- 3 request because the Public Record Act does not
- 4 allow requests for future documents.
- 5 I think this was the wrong answer
- 6 because I was not asking for specific documents, I
- 7 was just asking for documents in general to be
- 8 posted to the website, such as data requests and
- 9 responses, so the public could even know that such
- 10 documents exist.
- 11 For me the bottomline is right now in
- this especially larger compliance proceeding that
- 13 Calpine has started, the public doesn't even know
- 14 that a document exists to make a Public Record Act
- 15 request. Mr. Glaviano, in his letter, said that
- 16 all documents received and sent are docketed. But
- even the docket log, at least from the website's
- 18 point of view, for Metcalf, hasn't been updated in
- months.
- 20 So there's certain documents, I mean,
- 21 unless we harass staff or submit a Public Record
- 22 Act request like weekly, we're not going to know.
- 23 And I think for smaller issues this might not be
- important, but our neighborhood has always been
- 25 concerned about startup emissions and that's what

this latest compliance proceeding is about. We'd

- 2 like to be in the loop.
- 3 And so I would just like to ask if you
- 4 could, like I said, help provide your usually high
- 5 level of outreach to the public and just give us a
- 6 way to know the documents exist. I mean if it's
- 7 through an up-to-date docket log or even just put
- 8 the documents on the website.
- 9 And just in closing, I think this also
- 10 applies to the schedule right now. We have no
- idea what the schedule is; we have no idea if
- there's going to be a public comment period. And
- so we're very confused, and I feel a little bit in
- the dark and hope that you can help us. Thank
- 15 you.
- 16 CHAIRMAN KEESE: Let me ask Mr.
- 17 Therkelsen if he has a response.
- 18 MR. THERKELSEN: Steve, this is Bob
- 19 Therkelsen, the Executive Director. I heard your
- 20 comments, and basically the three major concerns
- 21 that I heard were questions about whether data
- 22 requests and other items related to compliance
- 23 matters could be posted on our website.
- 24 Second item is whether or not we can
- 25 have our dockets kept more up to date. And also

1 thirdly, then, having things related to schedules

- and public comment periods, again for compliance
- 3 matters, posted on the website.
- 4 To my knowledge there's no reason that
- 5 all three of those can't be taken care of. But I
- 6 need to talk to my staff to see if there's
- 7 anything that would preclude that from happening.
- 8 And what I will do is have somebody get
- 9 back to you later on this week regarding that
- 10 answer, but, again, I would expect that those
- 11 things in the future could be posted.
- 12 MS. KIM: Mr. Chairman, this is Margret
- 13 Kim, the Public Adviser. Yesterday I spoke to Mr.
- 14 Steven Nelson and soon after we discussed the
- issues that he's raised.
- I talked to Tom, and I believe that it
- 17 was a reasonable request to have an updated docket
- log posted on the website.
- 19 CHAIRMAN KEESE: Thank you.
- 20 COMMISSIONER GEESMAN: Mr. Chairman.
- 21 CHAIRMAN KEESE: Commissioner Geesman.
- 22 COMMISSIONER GEESMAN: I would ask the
- 23 question of the Executive Director whether or not
- 24 we do have a procedure for keeping those docket
- logs current on the website. Because I suspect

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that if this is a generic compliance question
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- 2 we're going to face it in other power plant sites,
- 3 as well as Metcalf.
- 4 MR. THERKELSEN: And I know we have had
- 5 a process to make sure the docket logs are kept up
- 6 to date. And when new information is filed it's
- 7 entered in there and it's posted on the logs.
- If nothing, there's no activity, then,
- 9 again, there's no update.
- 10 But I need to check to make sure that we
- 11 are being current on that, and not only in
- 12 compliance, but in all the proceedings.
- 13 COMMISSIONER GEESMAN: Yeah, and my
- 14 question would be --
- 15 MR. NELSON: Could I just add one --
- 16 COMMISSIONER GEESMAN: -- it may be more
- 17 than simply the Metcalf case, so if there's a
- 18 generic issue it ought to be addressed
- 19 generically.
- MR. THERKELSEN: Agreed.
- 21 MR. NELSON: Could I just add one
- 22 comment?
- 23 CHAIRMAN KEESE: Yes, Mr. Nelson.
- MR. NELSON: Yeah, I just checked, I
- 25 think, yesterday and the compliance area on the

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1 website is, I think, for a novice very confusing.
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- 2 It's more of a directory structure like for a
- 3 computer directory structure, and there's just a
- 4 few files.
- 5 And for the Metcalf it looked like
- 6 October 2004 was the last time. And it's also
- 7 listed under AFC. And that whole area, I think,
- 8 in general, could use some improvement. I'm a
- 9 computer nerd so it doesn't bother me. But I
- 10 think for your general public that area of your
- 11 website is lacking compared to the nice job you've
- done in other places.
- 13 CHAIRMAN KEESE: Thank you.
- MR. THERKELSEN: Yeah, appreciate the
- 15 suggestions.
- 16 CHAIRMAN KEESE: We're going to take a
- 17 look at it. Our Executive Director will take a
- 18 look at it. Thank you for bringing it to our
- 19 attention.
- 20 MR. NELSON: Okay, thank you very much.
- 21 CHAIRMAN KEESE: Thank you. Issa?
- MR. AJLOUNY: Yes. My thing is just
- 23 basically to enforce where Steve's had a problem.
- 24 Steve was copying me back and forth on these
- emails, trying to get the information.

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And I just want to make something clear,
understand something. The data requests,
themselves, would that be in the docket? Or would
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- 4 that be where we can get to it on the website? Or
- 5 just that data requests were put out?
- 6 MR. THERKELSEN: Typically what happens
- 7 in the docket is it identifies what the activity
- 8 is. And if there are electronic versions of that,
- 9 then that can be obtained off the website, I
- 10 believe. I need to double-check that; it's been
- 11 awhile since I played in dockets.
- 12 MR. AJLOUNY: Yeah, I think -- I don't
- think it's electronically that we can get those
- 14 actual, like let's say in this case we're
- interested in the data requests and we received
- 16 them. Now we're interested in the responses from
- 17 Calpine, which we have not received yet. And
- 18 those are the kind of things that we actually need
- 19 to have, and then have them on time so we can be
- 20 prepared for the workshop and so forth.
- 21 Right now we still don't have the
- 22 responses. And I think Mr. Nelson probably forgot
- 23 to mention that he's still waiting for the
- 24 responses from Steve Munro -- Steve Munro, in
- January's meeting, mentioned to request it from

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1 him. And Steve Nelson did that, so I didn't
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- 2 bother doing it, hoping to get it from Steve
- 3 Nelson. And we still need the responses from
- 4 Calpine on those data requests.
- 5 MR. THERKELSEN: Okay, I will check to
- 6 see if that is available electronically, or
- 7 whether that's something that either you'd need to
- 8 come in and pick up, or we would need to send to
- 9 you.
- MR. AJLOUNY: Okay. One last thing is
- 11 we were directed, or at least I was directed to
- 12 talk to Steve Munro on any request. So if I
- 13 needed some kind of document, specific document
- 14 like in this case the data request responses from
- Calpine, should I be able to email it to Steve
- Munro and within a day or two when he's in the
- 17 office just -- I know -- him responding and just
- 18 sending it to me, instead of waiting the ten days?
- 19 Is that unreasonable?
- 20 MR. THERKELSEN: I have your perspective
- 21 on the issue. I'll talk to Steve to see whether
- or not that's reasonable, and we'll see what we
- can work out.
- MR. AJLOUNY: Okay. Because time is of
- 25 the essence in this one amendment that Calpine is

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1 trying to push.
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- 2 CHAIRMAN KEESE: That'll be checked out
- 3 this afternoon.
- 4 MR. AJLOUNY: Thank you.
- 5 CHAIRMAN KEESE: Thank you, Issa.
- 6 Finally, we have Mr. Bill Eisen. You're
- 7 calling regarding El Segundo?
- 8 MR. EISEN: -- procedures in your notice
- 9 of hearing to participate in a telephone
- 10 conference. However, during the conference I
- 11 wasn't called. Jason of MCI, who I spoke with,
- 12 had told me that it was somehow discretionary with
- 13 him, or MCI, of who they would allow to speak on a
- 14 given item.
- I don't think that, you know, any
- 16 discretion like that was given to MCI. He told me
- 17 that there were actually me and four other parties
- 18 that wanted to speak on this El Segundo item, and
- 19 I heard the hearing. Only two, Bob Perkins and
- 20 somebody from Santa Monica Baykeeper, were the
- only ones that actually spoke. So there's several
- 22 people, including myself, that weren't allowed to
- 23 speak.
- I just want to -- I just have some very
- 25 brief comments and I would hope that you would

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1 agree to incorporate those comments.
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- 2 CHAIRMAN KEESE: This is the public
- 3 comment period. Why don't you go ahead.
- 4 MR. EISEN: I'm sorry?
- 5 CHAIRMAN KEESE: Make your comment.
- 6 It's appropriate at this time.
- 7 MR. EISEN: Okay. Comments are -- yeah,
- 8 is that the section 30413(d) of the Coastal Act
- 9 states that unless the Commission specifically
- 10 finds that the adoption of the provision specified
- in the report would result in greater adverse
- 12 effect on the environment, or that the provision
- proposed in the report would not be feasible.
- 14 However, your amended language states by
- section 30413(d) by finding that the adoption of
- these provisions would result in greater adverse
- 17 effect on the environment. And then you've added
- the language "when compared to implementation of
- 19 the project as conditioned in this decision." And
- 20 that's not the statutory language. And I'd just
- 21 like to point that out.
- 22 I think that the statutory language
- interpreting 30413(d) means that -- in finding of
- 24 a greater adverse effect means that compared to
- 25 without the greater adverse effect. In other

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1 words what effect -- would the project have a
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- 2 greater adverse effect than if it didn't have any
- 3 effect. I mean rather than if the proposed
- 4 conditions were not done and is an adverse effect;
- or not done, not compared to this condition in
- 6 this decision. That is just one thing.
- 7 The other thing that I'd like to say is
- 8 that I still don't see any evidence in the record
- 9 supporting that finding. And this is a point that
- 10 I made, and there was nothing at this hearing that
- indicated there's any evidence in the record
- 12 supporting that.
- 13 And the final thing I'd like to say is
- that logically El Segundo Repowering project would
- 15 affect areas of environment closer to the project,
- 16 such as Manhattan Beach, where I live, than
- farther away. So I believe that a site-specific
- 18 316(b) type study is warranted. And I still would
- 19 encourage the Commission do require that study to
- 20 be done, a site-specific study, as a condition to
- 21 granting the permit.
- 22 And I'd appreciate it if you'd just
- 23 incorporate my comments into the person's that
- spoke on this item, if that's possible.
- 25 CHAIRMAN KEESE: Thank you. We will.

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1 Just for your information, Mr. Palmer was speaking
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- in a representative capacity for two other people,
- 3 also. So we did get everybody.
- 4 We will check out your problem with MCI.
- 5 We do use discretion in who we hear. But we have
- 6 not refused to hear anybody. So --
- 7 MR. EISEN: Well, I know you haven't,
- 8 according to what's stated at the hearing. But --
- 9 CHAIRMAN KEESE: We will check that out
- 10 and we apologize for that.
- 11 MR. EISEN: Yeah, but you do agree to
- incorporate these comments --
- 13 CHAIRMAN KEESE: Yes, we will.
- 14 MR. EISEN: -- as referenced in the
- 15 decision.
- 16 CHAIRMAN KEESE: We will.
- MR. EISEN: Okay, I appreciate that very
- 18 much.
- 19 CHAIRMAN KEESE: Thank you.
- 20 MR. EISEN: All right, thank you. All
- 21 right, bye.
- 22 CHAIRMAN KEESE: Any further action from
- the audience?
- 24 This meeting is adjourned, subject to
- 25 meeting in executive session in about five minutes

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1	in my office.
2	(Whereupon, at 11:09 a.m., the business
3	meeting was adjourned, subject to
4	completion of the executive session.)
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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Business Meeting; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, nor in any way interested in outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of February, 2005.

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